MONTANA STATE PRISON
HEALTH SERVICES OPERATIONAL PROCEDURE

Procedure No.: MSP HS I-05.1	Subject: **RIGHT TO REFUSE MEDICAL TREATMENT**
Reference: NCCHC Standard P-I-05, 2014;	Page 1 of 2 and 1 attachments
Effective Date: November 1, 2010	Revised: June 1, 2017
Signature / Title: /s/ Cindy Hiner / Health Services Manager	
Signature / Title: /s/ Tristan Kohut, D.O./ Medical Director	

I. PURPOSE

To establish procedures to ensure inmates are granted the right to refuse medical care and treatment.

II. DEFINITIONS

Health Care Providers – licensed health care providers (e.g., physicians, nurses, psychiatrists, dentists, and mental health practitioners), including contracted or fee-for-service providers, responsible for inmate health care and treatment.

Health Care Staff – includes licensed health care providers and non-licensed health care staff (e.g., medical records staff, health care aides) responsible for inmate health care administration and treatment.

III. PROCEDURES

A. Assurances

1. All inmates have the right to refuse medical treatment.
2. Facility and health care providers and staff will not punish inmates for exercising their right to refuse medical treatment.
3. Health care providers will:
   a. ensure that the inmate is informed of the purpose for a recommended procedure or medication; and
   b. provide an explanation of the potential risk involved in the inmate's refusal of treatment.

B. Refusal Procedures

1. The inmate or a staff member notifies the health care staff of the refusal of treatment or therapy.
2. The health care staff will complete the following sections of an MSP *Refusal of Treatment form*:
   a. description of treatment or therapy refused;
   b. purpose for the treatment or therapy refused; and
   c. risk and possible consequences of refusal of treatment or therapy.
3. The pink copy of the Refusal of Treatment form will be removed from the form, and the remaining white and yellow copy will be delivered in person or by institutional mail to the inmate. The un-signed, pink copy of the Refusal of Treatment form will be placed in the inmate's medical or dental health record until the signed white copy is inserted in its place.
4. The staff member who delivers the white and yellow copies to the inmate will ensure:
   a. the inmate completes the reason for refusal of treatment or therapy section of the form;
   b. writes down any additional comments; and
   c. the inmate signs the form, noting his ID/AO# and the date.

5. The staff member who delivers the form will then:
   a. sign the form as a witness to the inmate's refusal;
   b. notate their position;
   c. date the form;
   d. give the yellow copy of the form to the inmate; and
   e. forward/bring the white copy to the Infirmary where medical records staff will place it in the inmate's health records. Once the signed white copy is secured in the inmate's health record, the unsigned pink copy can be eliminated.

6. If the inmate refuses to sign the form, two staff witnesses must countersign and document the refusal on the form.
   a. One witness will notate the inmate was informed of the purpose of treatment or therapy and the refusal of the inmate to sign the Refusal of Treatment form.
   b. This witness will sign, notate their position and date in the lower portion of the Comments Section of the Refusal of Treatment form.
   c. A second witness will countersign, notate their position, and date the Refusal of Treatment form.

7. Health care providers and staff will not allow inmates to sign a blanket refusal for treatment.

8. If an inmate refuses routine sick call or a single dose of medication, health care staff will only require the inmate to sign the medical refusal form, provided the refusal does not seriously jeopardize the inmate's health.

9. An inmate does not waive his or her right to subsequent health care by refusing treatment at a particular time.

C. Counseling Procedures

1. Health care providers will counsel any inmate who repeatedly refuses assessments, clinic appointments, or medication pass. When the inmate's refusal may seriously jeopardize his or her health the provider will:
   a. inform the inmate concerning the benefits and risks of the proposed treatment or medication;
   b. provide the counseling in the health services area or other private clinical setting; and
   c. document the meeting in the inmate's health record.

D. Separate Housing

1. When an inmate refuses treatment, and he has a medical condition that poses a health risk to others, health care staff may isolate him from the general population.

2. In such cases, designated health care staff will consult with custody and classification staff to determine the appropriate housing for the inmate.

E. Life Threatening Situations

1. When an inmate's life is threatened by his refusal to accept medical treatment, the Warden designated health care providers will immediately pursue legal counsel through DOC Legal Services Bureau.

F. Review

1. As part of the continuous quality improvement program, health care staff will review all medical treatment refusals, identify patterns that may create barriers to inmate health care, and meet with facility administrators to address any issues.

IV. CLOSING

Questions concerning this operational procedure will be directed to the Health Services Manager.

V. ATTACHMENTS

Refusal of Treatment form attachment A

Montana State Prison

Refusal of Treatment

Print:

Inmate / Resident Name (last, First)	Date	Unit

I, _____ , DOC ID #: _____ , an Inmate at Montana State Prison **refuse** to have the following recommended treatment:

☐ **MEDICAL** ☐ **DENTAL** ☐ **MENTAL HEALTH**

Description of treatment or therapy refused:

Purpose of treatment or therapy refused:

recommended by: _____

I acknowledge that I have been informed of the below risk and possible consequences that include, but are not limited to the following and which may result in serious adverse health effects including death.

a) _____

b) _____

c) _____

d) _____

To be completed by Inmate:

Reason for Refusal:

Comments:

I herby release Montana State Prison and their employees, agents, contractors and Independent Providers from **all** responsibility for any and all affects that may result from the above refusal.

Inmate's Signature	DOC ID #:	Date / Time:
Witness	Position	Date / Time:

Revised: 29 AUG, 2013